

PATENT Ser. No. 10/043,006

REMARKS

The Examiner's continued attention to the present application is noted with appreciation, as is the indication of the allowability of the subject matter of claims 3, 7, 13, and 17.

The Examiner rejected claims 1, 4, 8-9, 11, 14, and 18-19 under 35 U.S.C. § 102(b) as being anticipated by Hosoda et al. ("Hosoda"). Claims 8 and 18 are amended. The rejection is traversed as to all claims.

The Examiner notes correctly that the Abstract of Hosoda accurately summarizes the invention thereof. However, as noted in the Abstract (emphasis supplied), Hosoda inhibits the air-fuel ratio "when the estimated temperature of any one of the at least one component part of the engine is higher than a corresponding predetermined value." This is because Hosoda is concerned with taking intervention when an engine is in a high load state.

Hosoda does not disclose and in fact teaches away from the present invention. The present invention in claim 1 (emphasis supplied) restricts air intake "when the temperature [of the exhaust] is below the set point" and in claim 11 (emphasis supplied) restricts air intake "when the temperature is below an exhaust temperature set minimum point." The present invention is concerned with engines in no load or low load states. Claims 8 and 18 as amended state that a parameter is "indicating that the engine is operating substantially under capacity".

The Examiner rejected claims 2, 5-6, 10, 12, 15-16, and 20-28 under 35 U.S.C. § 103(a) as being unpatentable over Hosoda. Claims 8 and 18 are amended. This grounds of rejection is traversed as to all claims. As noted above, Hosoda teaches away from the present invention.

A Supplemental Information Disclosure Statement is submitted herewith. U.S. Patent Application Serial No. 10/010,168 (Publication No. 2002/0073696) was filed December 10, 2001 (note that a claim to foreign priority was made, but to an application filed more than a year before in contravention of the Paris Convention), after the filing of the Provisional Patent Application to which priority is claimed in the

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instant application, namely U.S. Provisional Patent Application Serial No. 60/260,550, filed January 8, 2001 (the '550 Application). U.S. Patent Application Serial No. 09/745,360 (Publication No. 2002/0070681) was filed December 21, 2000. Attached is a Rule 131 Declaration of Applicant noting that the documents comprising the '550 Application were generated before December 21, 2000, and that Applicant proceeded diligently to cause a patent application to be filed on January 8, 2001 (less than three weeks from December 21, 2000). Accordingly, the two references provided via the Supplemental Information Disclosure Statement are not citable against the present application.

Being filed herewith is a Petition for Extension of Time to July 30, 2004, with the appropriate fee. Authorization is given to charge payment of any additional fees required, or credit any overpayment, to Deposit Acct. 13-4213. A duplicate of this paper is enclosed for accounting purposes.

An earnest attempt has been made to respond to each and every ground of rejection advanced by the Examiner. However, should the Examiner have any queries, suggestions or comments relating to a speedy disposition of the application, the Examiner is invited to call the undersigned.

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Reconsideration and allowance are respectfully requested.

Respectfully submitted,

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